



## Cloch Housing Association

# Being Complained About Policy

<b>Policy Category</b>	
<b>Policy Number</b>	108
<b>Date Adopted</b>	09/03/2021
<b>This Review</b>	n/a
<b>Next Review</b>	n/a
<b>Equalities Impact Assessment Required</b>	None
<b>Link to other policies</b>	Model Complaints Handling Procedure
<b>Consultation</b>	
<b>Need for Procedure</b>	

## BEING COMPLAINED ABOUT

### 1 INTRODUCTION

- 1.1 This document sets out how we will manage a complaint about a member of our staff. We use the term 'person complained about' to refer to the staff member who is the subject of a complaint.
- 1.2 We believe that complainants have a right to be heard, understood and respected. Our Complaints Handling Procedure sets out how we deal with a complaint received about our organisation.
- 1.3 We also believe that the right to be heard, understood and respected applies to the person complained about.

### 2 GUIDELINE PRINCIPLES

- 2.1 The principles, which underpin these Guidelines, relate to Fairness, Transparency, Confidentiality and Efficiency.
- 2.2 By **Fairness** we mean that both the complainant and person complained about should have the opportunity to say what happened in relation to a complaint, to provide evidence to support what they say and to say whether they agree or not with a complaint decision. Fairness also means that the person making the decision about the complaint should not prejudge the complaint or favour either the complainant or the person complained about.
- 2.3 By **Transparency**, we mean that the complainant and the person complained about are similarly kept advised about how the complaint will be dealt with, the progress of the complaint through the process and the reasons for the decision relating to the complaint outcome.

**2.4 Confidentiality** is essential in complaints handling. This includes maintaining the complainant's confidentiality and explaining to them the importance of confidentiality generally. However, confidentiality does not mean secrecy and our approach is to always tell a staff member when a complaint that relates to them has been received unless there is an over-riding reason not to do so. In doing this, we will bear in mind our legal requirements, laid out in our Data Protection Policy.

**2.5 Efficiency** is also important and we aim for our complaints process to be as efficient as possible, by which we mean that a complaint should be progressed immediately. We know that the longer it takes to deal with a complaint the more stressful it can be for all

### **3 EXPECTED BEHAVIOURS**

**3.1** We know that people may act out of character in times of trouble or distress. We expect staff who are complained about to behave in a professional manner towards those who have complained about them.

**3.2** We also recognise that the actions of complainants who are angry, demanding or persistent may result in behaviour towards our staff, which is, or is experienced as being, unacceptable. We will, therefore, apply our Unacceptable Actions Policy, to protect staff who are complained about from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour including discrimination.

**3.3** Where necessary, and (where possible) after discussion with the person complained about, we may decide to reallocate their contact with the complainant to another staff member on either a temporary or permanent basis.

### **4 IMMEDIATE ACTION FOLLOWING NOTIFICATION OF A COMPLAINT**

**4.1** The action to be taken will depend on whether a person has been named in a complaint or is a person complained about.

- 4.2** Where a person has been named in a complaint, but the complaint is not about their actions or inactions, and then the person(s) administering the complaint will tell them (as soon as practically possible) that a complaint that mentions their name has been received. This is for information only as it is unlikely that they will need to be involved in the complaint process.
- 4.3** In the case of a person complained about (which includes a person who has not been named but who can be identified as being the person complained about), as soon as is practically possible after the receipt of a complaint, this person will be told that a complaint about them has been received.
- 4.4** The person complained about will be provided with as much information as possible about the complaint and any supporting information. They will be told how and when they will be given the opportunity to respond to the issues raised.
- 4.5** The person complained about will have access to a named contact person who can help them (if needed) with support relating to the complaints process. This may be their line manager, but should not be the person who is responsible for investigating or making decisions about the complaint outcome. It is not the role of this contact person to form a view about the merits of the complaint.
- 4.6** It is for the person complained about to decide whether to access the contact person and what to tell them about the complaint. The contact person will respond to any concerns that the person complained about may have throughout their involvement in the complaints process. The contact person is expected to provide, or advise about others who can provide:
- information about the complaints process;
  - information relating to other organisational processes or policies which may relate to the complaint;
  - information about support or support services which are available to the person complained about ie Listening Ear or Westfield counselling service.
- 4.7** Depending on the nature of the complaint, it may be that others – such as Corporate Services – need to know about it at an early stage. The person complained about will be told if others have been or need to be notified.

## **5 COMPLAINT RESOLUTION DISCUSSIONS**

**5.1** Wherever possible, appropriate and where our complaints process permits, we will involve the person complained about in the discussions relating to the resolution of a complaint in issues:

- which are at an early stage in the process, are straightforward, can be resolved easily and require little or no investigation;
- where the complainant and the person complained about both have a willingness to assist the resolution of the complaint through discussion

**5.2** If complaint resolution is used, then it may take the form of:

- a direct discussion between the complainant and the person complained about (if both are willing for this to happen);
- an impartial third person who is acceptable to all parties conveying information between those involved;
- an impartial third person who is acceptable to all parties helping those involved to talk to each other and find a solution'

## **6. COMPLAINT INVESTIGATION AND DECISION**

**6.1** As part of a complaint investigation, we will always arrange for the person complained about to provide their response to the issues raised in the complaint. We will do this by holding a meeting between the person complained about and a senior staff member in their team.

**6.2** Wherever possible, the person complained about will be given the opportunity to comment on the information provided by the complainant, and to offer any additional information to support their response.

- 6.3 The person complained about will receive a copy of any decision outcome sent to the complainant, and this will be provided (wherever possible) at the same time as it is sent to the complainant.
- 6.4 Irrespective of whether a complaint is upheld or not, the person complained about will be told straight away about any implications relating to the decision, including any potential 'next steps' and what this might mean for them (see Section 9 below).
- 6.5 The person complained about will be involved in any learning or actions, which result from the complaint outcome decision. We will also give the person complained about the opportunity to discuss their experience with an appropriate person as to how we have dealt with the complaint and how this has impacted on them.

## **7. REVIEW OF A COMPLAINT DECISION**

- 7.1 If a complainant does not accept the decision reached in relation to their complaint, then the complaint may be subject to an internal or external review process (for example, external review by an Ombudsman or a Tribunal).
- 7.2 In these situations, the person complained about will (wherever possible):
- be told as soon as it becomes known that the decision will be reviewed.
  - be informed about the relevant review process and what the possible outcomes might be.
  - have access to a named contact person for advice and support.
  - have the right to see and comment on any review documents.
  - be told straight away about any review outcome.
  - be given an opportunity to discuss their experience relating to the review process with an appropriate person concerned.
- 7.3 Irrespective of whether a complaint is upheld or not at this review stage, the person complained about will be told straight away about any implications relating to this and will be involved in any learning or actions, which result from the complaint review decision.

## **8 COMPLAINTS AND PROFESSIONAL CONDUCT**

**8.1** A person who is complained about may be a member of a profession, in which case it might be the case that a complaint about them needs to be referred to the relevant professional body for consideration.

**8.2** In this situation, we will:

- advise the person complained about that the complaint will be referred to their professional body.
- tell the person about any communication we have with the professional body about the complaint.
- enable the person complained about to have access to a named contact person for advice and support.

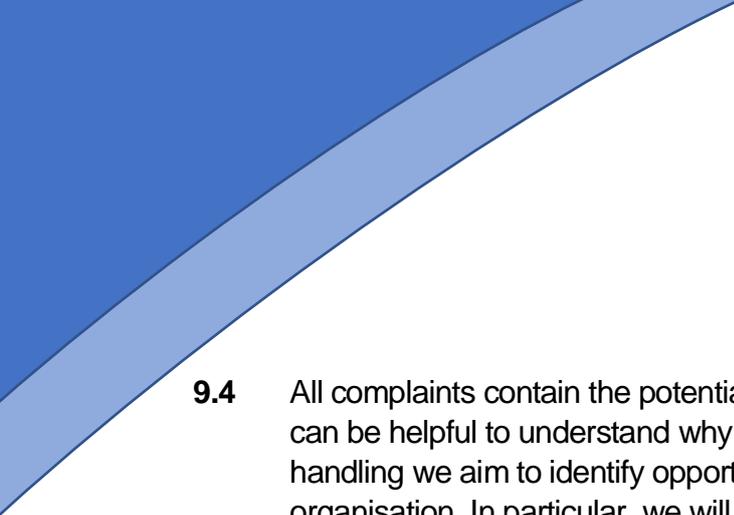
**8.3** It may be that a complaint is made directly to a professional body, in which case we will tell the person complained about immediately that we become aware that this has taken place. We will also tell them about any potential resulting action that we need or intend to take.

## **9 ACTION RELATING TO A COMPLAINT**

**9.1** The closure of a complaint is not the end of the process. We have a non-punitive and positive approach to managing complaints. This includes taking any necessary action in relation to a person complained about. When considering what – if any – action needs to take place in relation to a person complained about, our approach is to follow the guidance set out in Appendix One.

**9.2** At the earliest opportunity after the closure of the complaint, we will make sure that the person complained about is given feedback in order to better understand the decision of the organisation and any recommendations made.

**9.3** We will also inform the person complained about who, in addition to the complainant, we intend or need to tell about the complaint outcome (both within and outwith our organisation) and how and when we intend to do so.



**9.4** All complaints contain the potential for learning. Even if a complaint is not upheld, it can be helpful to understand why it was made in the first place. Through complaints handling we aim to identify opportunities to improve how we work across the organisation. In particular, we will involve the person complained about in the identification of any shortfalls and contributory factors, and in the development of solutions to effectively address problems and reduce the likelihood of recurrence.

## APPENDIX ONE ACTION RELATING TO A COMPLAINT

The Table below suggests an approach to be followed when deciding whether action needs to take place in relation to a person who has been complained about. It highlights some important principles to be considered before formal management action is taken in relation to an individual staff member.

Start here 01. deliberate harm test	
<p><b>1a</b> Was there any intention to cause harm?</p> <p>If <b>NO</b> go to next question</p>	<p>If <b>YES</b></p> <p><b>Recommendation:</b></p> <p>Follow organisational guidance for appropriate management action. This could involve: contacting the relevant regulatory bodies, suspension of the staff member, referral to police and disciplinary processes.</p>
02. health test	
<p><b>2a</b> Are there indications of substance abuse?</p> <p><b>2b</b> Are there indications of physical or mental ill health?</p> <p>If <b>NO</b> go to next question</p>	<p>If <b>YES</b></p> <p><b>Recommendation:</b></p> <p>Follow organisational guidance on substance abuse/health issues affecting work, which is likely to include occupational health referral.</p> <p>Also consider sick leave and</p>
03. foresight test	
<p><b>3a</b> Are there agreed and procedures in place apply to the in question?</p> <p><b>3b</b> Are the processes and procedures workable and in routine use?</p> <p>If <b>YES</b> go to next question</p>	<p>If <b>NO</b> to either</p> <p><b>Recommendation:</b></p> <p>If processes/procedures were not in place, were but not workable or in routine use, action relating to the individual staff member unlikely to be appropriate.</p> <p>Action needs to take place to put processes/procedures in place, or to ensure that those present are workable</p>

## 04. substitution test

**4a** Are there indications that other individuals from same peer group, with comparable experience and qualifications, would behave in the same way in similar circumstances?

If **YES**  
to any



**4b** Was the individual out when relevant information was provided to their peers

**4c** Did more senior members of the team fail to provide supervision that normally should be provided?

If **NO** go to next question

### Recommendation:

More likely to be a system failure. So, relating to the individual staff member is unlikely to be appropriate. Depending on nature of the complaint, some additional relevant support/training may be appropriate.

However, action needs to take place to understand why others would behave in same way in similar circumstances – and what needs to be done in relation to this.

If relevant training has been missed, then staff member needs to undertake this training.

Where there has been a failure in supervision, there is likely to be a need to investigate why the appropriate level of supervision has not been provided.

## 05. Mitigating Circumstances

**5** Were there any circumstances relating to the actions/omissions of the staff member?

If **YES**

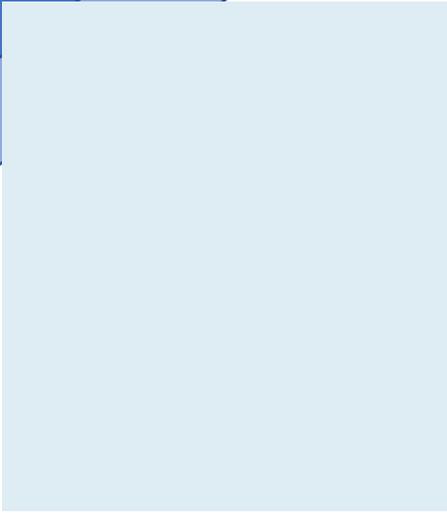
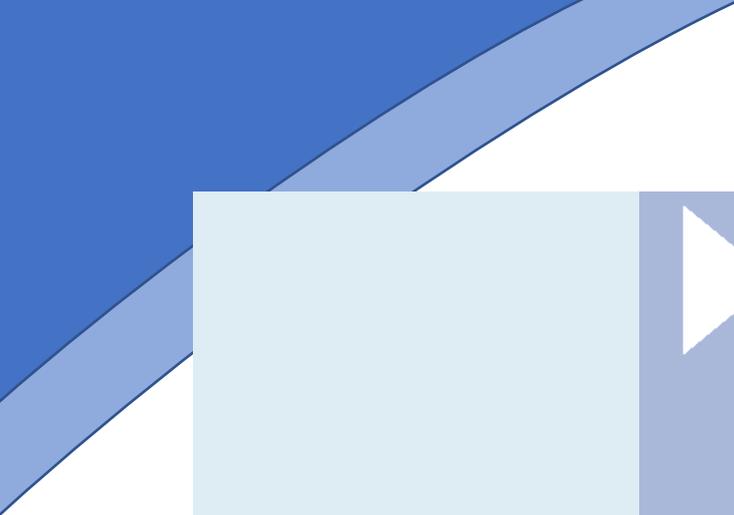


### Recommendation:

More likely to be a system failure. So, relating to the individual staff member is unlikely to be appropriate – this may depend on the degree of mitigation. Depending on the nature of the complaint, some additional relevant support/training may be appropriate.

If **NO**

### Recommendation:



Follow organisational guidance for appropriate management action. This could involve individual training, performance management, competency assessments, changes to role or increased supervision, and may require relevant regulatory bodies to be contacted, staff suspension and disciplinary processes.